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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/957,709	10/24/1997	HOLLY HOGREFE	1486/41363CP	2438
7590	08/09/2005		EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P. 1300 I STREET N.W. WASHINGTON, DC 20005			RAMIREZ, DELIA M	
			ART UNIT	PAPER NUMBER
			1652	

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	08/957,709	HOGREFE ET AL.	
	Examiner	Art Unit	
	Delia M. Ramirez	1652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 May 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 17,46,59-66,77-79,87-89 and 95 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 17, 46,59-66,77-79,87-89,95 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Application

Claims 17, 46, 59-66, 77-79, 87-89 and 95 are pending.

Applicant's amendment of claims 17, 46, 63, 87, 95, and cancellation of claims 85, 90-91, and 97 in a communication filed on 5/18/2005 is acknowledged.

Rejections and/or objections not reiterated from previous office actions are hereby withdrawn.

Claim Objections

1. Claims 17 and 95 are objected to due to the recitation of "complement of the nucleic acid". To clearly indicate that the intended complement is the full-length complement of the polynucleotide of SEQ ID NO: 70, it is suggested the claim be amended to recite "complete complement". Appropriate correction is required.
2. Claims 46 and 62-63 are objected to due to the recitation of "an antibody". To clearly indicate that the claims do not read on a product of nature, it is suggested the term be amended to recite "an isolated antibody". Appropriate correction is required.
3. Claim 95 is objected to due to the recitation of "hybridizes to thenucleic acid sequence of SEQ ID NO: 70". It is noted that hybridization occurs between nucleic acid molecules and not between sequences, which are graphical representations of the order in which nucleotides are arranged in a nucleic acid molecule. It is suggested the term be amended to recite "hybridizes to....nucleic acid of SEQ ID NO: 70". Appropriate correction is required.

Double Patenting

4. Claims 17, 46, 59-66, 77-79, 87-89 and 95 remain rejected under the judicially created doctrine of double patenting over claims 1, 5-9, 13-20, 23-24, 26-34 and 40-41 of U.S. Patent No. 6,183,997. This rejection has been discussed at length in Paper No. 25, mailed on 2/27/2002.

5. Applicants have indicated that if the instant claims are found allowable, a terminal disclaimer will be filed. Since a terminal disclaimer has not yet been filed and no arguments have been presented pointing out disagreements with the Examiner's contentions, the double patenting rejection is maintained for the reasons of record.

Conclusion

6. No claim is in condition for allowance.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PMR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Delia M. Ramirez whose telephone number is (571) 272-0938. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Ponnathapura Achutamurthy can be reached on (571) 272-0928. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Delia M. Ramirez, Ph.D.
Patent Examiner
Art Unit 1652

DR
July 25, 2005

Rebecca Prouty
REBECCA E. PROUTY
PRIMARY EXAMINER
GROUP 1600
1600